

Billing Code 4810-25-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 515, 538 and 560

Cuban Assets Control Regulations

Sudanese Sanctions Regulations

Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury is revising the Cuban Assets Control Regulations, the Sudanese Sanctions Regulations, and the Iranian Transactions Regulations to add general licenses pertaining to certain publishing activities.

DATES: Effective Date: [insert date of publication].

Comments may be submitted at any time.

ADDRESSES: You may submit comments by any of the following methods:

- Federal eRulemaking Portal:
<http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web Site:
<http://www.treas.gov/offices/enforcement/ofac/comment.html>.
- Fax: Chief of Records, 202/622-1657.
- Mail: Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

Instructions: All submissions received must include the agency name and the FR Doc. number that appears at the end of this document. Comments received will be posted without change to <http://www.treas.gov/ofac>, including any personal information provided. For detailed instructions on submitting comments and additional information on the

rulemaking process, see the "Public Participation" heading of the SUPPLEMENTARY INFORMATION section of this document. To read background documents or comments received, go to <http://www.treas.gov/ofac>.

FOR FURTHER INFORMATION CONTACT: Chief of Policy Planning and Program Management, tel. 202/622-2500, Chief of Licensing, tel.: 202/622-2480, Chief of Compliance, tel. 202/622-2490, or Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This file is available for download without charge in ASCII and Adobe Acrobat readable (*.PDF) formats at *GPO Access*. *GPO Access* supports HTTP, FTP, and Telnet at fedbbs.access.gpo.gov. It may also be accessed by modem dialup at 202/512-1387 followed by typing "/GO/FAC." Paper copies of this document can be obtained by calling the Government Printing Office at 202/512-1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page:

<http://www.treas.gov/ofac>, or via FTP at [ofacftp.treas.gov](ftp://ofacftp.treas.gov).

Facsimiles of information are available through the Office's 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

The Cuban Assets Control Regulations, 31 CFR part 515 (the "CACR"), were issued by the U.S. Government on July 8, 1963, under the Trading with the Enemy Act (50 U.S.C. App. 5 et seq.) (TWEA), in response to certain hostile actions by the Cuban Government. Since that time, U.S. policy toward Cuba has been to encourage a rapid and peaceful transition to democracy. The TWEA sanctions are intended to isolate the Cuban Government economically and deprive it of U.S. dollars that the Cuban Government would otherwise use to maintain or strengthen its repressive apparatus, enforce its information blockade on the Cuban people, and arrange for a succession and the continuation of the totalitarian Communist government.

The Sudanese Sanctions Regulations, 31 CFR part 538 (the "SSR"), implement Executive Order 13067, issued on November 3, 1997, pursuant to, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C.

1701-1706)(IEEPA). In the order, the President declared a national emergency with respect to the policies and actions of the Government of Sudan, "including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom." To deal with this national emergency, Executive Order 13067 imposed trade sanctions with respect to Sudan and blocked all property and interests in property of the Government of Sudan in the United States or within the possession or control of U.S. persons.

The Iranian Transactions Regulations, 31 CFR part 560 (the "ITR"), implement a series of Executive orders, beginning with Executive Order 12957, issued on March 15, 1995. In that order, the President declared a national emergency pursuant to IEEPA to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, its efforts to undermine the Middle East peace process and its efforts to acquire weapons of mass destruction and the means to deliver them. To deal with this threat, Executive Order 12957 imposed prohibitions on certain transactions with

respect to the development of Iranian petroleum resources. On May 6, 1995, the President issued Executive Order 12959 imposing comprehensive trade sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

The Treasury Department's Office of Foreign Assets Control ("OFAC") is amending the CACR, SSR and ITR to authorize certain activities relating to publishing that otherwise entail the prohibited exportation of services to, or prohibited importation of services from, Cuba, Sudan or Iran.

With certain exceptions, the exportation and importation of information and informational materials to or from any country are exempt from regulation by the President under TWEA and IEEPA. See 50 U.S.C. App 5(b)(4) and 50 U.S.C. 1702(b)(3), respectively. OFAC is issuing the new general licenses set forth at 31 C.F.R. § 515.577, 31 C.F.R. § 538.529 and 31 C.F.R. § 560.538 to authorize transactions not already exempt from regulation that directly support the publishing and marketing of manuscripts, books, journals, and newspapers, in paper or electronic format.

Each of the general licenses is similar in structure

and scope, authorizing a variety of activities relating to publishing with appropriate exceptions, such as those for the governments of each of the sanctioned countries. Section 515.545, a pre-existing general license pertaining to information and informational materials remains in effect, but is being revised to include a note referring to the further authorizations contained in § 515.577.

Public Participation

Because the amendment of the CACR, ITR and SSR involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply. However, OFAC encourages interested persons who wish to comment to do so in writing. The address for submitting comments appears in the ADDRESSES section near the beginning of this document. OFAC will not accept public comments written in languages other than English or accompanied by a request that a part or all of the submission be treated confidentially because of its

business proprietary nature or for any other reason. OFAC will return such submissions to the originator. All public comments on these regulations will be a matter of public record. Copies of the public record concerning these regulations will be made available not sooner than [90 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], and will be obtainable from OFAC's Internet Home Page at <http://www.treas.gov/ofac>. If that service is unavailable, written requests for copies may be sent to Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220, Attn: Chief, Records Division.

Paperwork Reduction Act

The collections of information related to 31 CFR parts 31 CFR parts 560 and 538 are contained in 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of

information unless the collection of information displays a valid control number.

List of Subjects

31 CFR Part 515. Administrative practice and procedure, Cuba, Exports, Foreign trade, Imports, Information.

31 CFR Part 538. Administrative practice and procedure, Exports, Foreign trade, Imports, Information, Sudan.

31 CFR Part 560. Administrative practice and procedure, Exports, Foreign trade, Imports, Information, Iran.

For the reasons set forth in the Preamble, 31 CFR parts 515, 538 and 560 are amended as follows:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 continues to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001-6010;
31 U.S.C. 321(b); 50 U.S.C. App 1-44; Pub. L. 101-410, 104
Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106-387, 114 Stat.
1549; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p.
1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p.
748; Proc. 3447, 27 FR 1085, 3 CFR, 1959-1963 Comp., p.
157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

**Subpart E--Licenses, Authorizations, and Statements of
Licensing Policy**

2. Section 515.545 is amended by adding a note at the
end of the section to read as follows:

§ 515.545 Transactions related to information and
informational materials.

* * * * *

Note to § 515.545. With respect to transactions
necessary and ordinarily incident to the publishing and
marketing of manuscripts, books, journals and newspapers,
see § 515.577.

3. Add a new § 515.577 to subpart E to read as follows:

§ 515.577 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, persons subject to the jurisdiction of the United States are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers (collectively, "written publications"), in paper or electronic format. This section does not apply if the parties to the transactions described in this paragraph include the Government of Cuba. For the purposes of this section, the term "Government of Cuba" includes the state and the Government of Cuba, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Cuba; any person occupying the positions identified in § 515.570(a)(3); employees of the Ministry of Justice; and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the

purposes of this section, the term "Government of Cuba" does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are not prohibited, provided that persons subject to the jurisdiction of the United States ensure that they are not engaging, without specific authorization, in the activities identified in paragraph (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3) Augmenting written publications through the addition of items such as photographs, artwork, translation, and explanatory text;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described above. For example, this section does not authorize persons subject to the jurisdiction of the United States:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Cuba;

(3) To engage in the exportation or importation of goods, other than information and informational materials, to or from Cuba;

(4) To operate a publishing house, sales outlet, or other office in Cuba; or

(5) To engage in transactions related to travel to, from and within Cuba.

(c) This section does not authorize persons subject to the jurisdiction of the United States to engage the services of publishing houses or translators in Cuba unless such activity is primarily for the dissemination of written publications in Cuba.

(d) This section does not authorize:

(1) Transactions for the development, production, design, or marketing of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 C.F.R. parts 120 - 130 (ITAR), the Export Administration Regulations, 15 C.F.R. parts 730 - 774 (EAR), or the Department of Energy Regulations set forth at 10 C.F.R. part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 C.F.R. part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of information subject to license application requirements under the EAR. These EAR license application requirements cover not only the exportation of information controlled on the Commerce Control List, 15 C.F.R. part 774, but also the exportation of any information subject to the EAR where a U.S. person knows or has reason to know that the information will be used, directly or indirectly, with respect to certain nuclear, missile, chemical and biological weapons, and nuclear-maritime end-uses. In addition, U.S. persons are precluded from exporting any information subject to the EAR to certain restricted end-users, as provided in the Commerce Department's end-user and end-use based controls set forth at 15 C.F.R. part 744; or

(5) The exportation of information subject to licensing requirements under the ITAR, or exchanges of information that are subject to regulation by other government agencies.

(e) Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) for purposes necessary and ordinarily incident to the publishing and marketing of written publications.

PART 538—SUDANESE SANCTIONS REGULATIONS

4. The authority citation for part 538 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 18 U.S.C. 2339B, 2332d; 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 106-387, 114 Stat. 1549; E.O. 13067, 62 FR 59989; 3 CFR, 1997 Comp., p. 230.

Subpart E--Licenses, Authorizations, and Statements of Licensing Policy

5. Add a new § 538.529 to subpart E to read as follows:

§ 538.529 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers (collectively,

"written publications"), in paper or electronic format.

This section does not apply if the parties to the transactions described in this paragraph include the Government of Sudan. For the purposes of this section, the term "Government of Sudan" includes the state and the Government of Sudan, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Sudan; and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term "Government of Sudan" does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are not prohibited, provided that U.S. persons ensure that they are not engaging, without specific authorization, in the activities identified in paragraph (d) of this section:

- (1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

- (2) Collaborating on the creation and enhancement of written publications;

(3) Augmenting written publications through the addition of items such as photographs, artwork, translation, and explanatory text;

(4) Substantive and artistic editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described above. For example, this section does not authorize U.S. persons:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Sudan;

(3) To engage in the exportation or importation of goods, other than information and informational materials, to or from Sudan; or

(4) To operate a publishing house, sales outlet, or other office in Sudan.

(c) This section does not authorize U.S. persons to engage the services of publishing houses or translators in Sudan unless such activity is primarily for the dissemination of written publications in Sudan.

(d) This section does not authorize:

(1) Transactions for the development, production, design, or marketing of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 C.F.R. parts 120 - 130 (ITAR), the Export Administration Regulations, 15 C.F.R. parts 730 - 774 (EAR), or the

Department of Energy Regulations set forth at 10 C.F.R. part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 C.F.R. part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of information subject to license application requirements under the EAR. These EAR license application requirements cover not only the exportation of information controlled on the Commerce Control List, 15 C.F.R. part 774, but also the exportation of any information subject to the EAR where a U.S. person knows or has reason to know that the information will be used, directly or indirectly, with respect to certain nuclear, missile, chemical and biological weapons, and nuclear-maritime end-uses. In addition, U.S. persons are precluded from exporting any information subject to the EAR to certain restricted end-users, as provided in the Commerce Department's end-user and end-use based controls set forth at 15 C.F.R. part 744; or

(5) The exportation of information subject to licensing requirements under the ITAR, or exchanges of information that are subject to regulation by other government agencies.

PART 560--IRANIAN TRANSACTIONS REGULATIONS

6. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa-9; 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106-387, 114 Stat. 1549; E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995, Comp., 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart E--Licenses, Authorizations, and Statements of Licensing Policy

7. Add a new § 560.538 to subpart E to read as follows:

§ 560.538 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers (collectively, "written publications"), in paper or electronic format. This section does not apply if the parties to the transactions described in this paragraph include the Government of Iran. For the purposes of this section, the term "Government of Iran" includes the state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof, which includes the Central Bank of Islamic Republic of Iran; and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term "Government of Iran" does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are not prohibited, provided that U.S. persons ensure that they are not engaging, without specific

authorization, in the activities identified in paragraph (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3) Augmenting written publications through the addition of items such as photographs, artwork, translation, and explanatory text;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described above. For example, this section does not authorize U.S. persons:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Iran;

(3) To engage in the exportation or importation of goods, other than information and informational materials, to or from Iran; or

(4) To operate a publishing house, sales outlet, or other office in Iran.

(c) This section does not authorize U.S. persons to engage the services of publishing houses or translators in Iran unless such activity is primarily for the dissemination of written publications in Iran.

(d) This section does not authorize:

(1) Transactions for the development, production, design, or marketing of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 C.F.R. parts 120 - 130 (ITAR), the Export Administration Regulations, 15 C.F.R. parts 730 - 774 (EAR), or the Department of Energy Regulations set forth at 10 C.F.R. part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 C.F.R. part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of information subject to license application requirements under the EAR. These EAR license application requirements cover not only the exportation of information controlled on the Commerce Control List, 15 C.F.R. part 774, but also the exportation of any information subject to the EAR where a U.S. person knows or has reason to know that the information will be used, directly or indirectly, with respect to certain nuclear, missile, chemical and biological weapons, and nuclear-maritime end-uses. In addition, U.S. persons are precluded

from exporting any information subject to the EAR to certain restricted end-users, as provided in the Commerce Department's end-user and end-use based controls set forth at 15 C.F.R. part 744; or

(5) The exportation of information subject to licensing requirements under the ITAR, or exchanges of information that are subject to regulation by other government agencies.

Dated: December , 2004.

Robert W. Werner,
Director, Office of Foreign Assets Control.

Approved: December , 2004.

Juan C. Zarate, Assistant Secretary, Terrorist Financing
and Financial Crimes,
Department of the Treasury.

BILLING CODE 4810-25-P

